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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,707	06/27/2007	Hartmut S. Engel	MFA-2610204	3480
25006 7590 01/16/2009 GIFTORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C. PO BOX 7021 TROY, MI 48007-7021				
EXAMINER NEILS, PEGGY A				
ART UNIT 2885		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/584,707

Applicant(s)

ENGEL, HARTMUT S.

Examiner

PEGGY A. NEILS

Art Unit

2885

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-10 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date 9/27/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because no drawings are in the application file. The Office action has been complete using the drawings from the published application. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pahl..

Pahl shows a lighting device installed in a ceiling which includes a housing (not shown) with a housing frame 16, and a frame 26 supported in a pivotal manner. A bracket 28 secures the frame 26 to the lighting device and includes a fixing region 30, an angled section 36 with an end region 34 containing a slot 52 for receipt of a flanged nut 54. A further section 40 readable as the spring limb of claim 1 joins section 30 and cooperates to secure the frame in place. The claims are directed to a spring mechanism with the

bolt on the spring engaging a latch mechanism with a slot on the functional frame. Pahl shows similar structure in the form of a bracket with a similar latching mechanism only reversed with the functional frame 26 containing the bolt element which provides a pivoting motion (claim 4). As the arrangement of Pahl accomplishes the same function of securing the frame in place relative to the lighting device, to orient a bolt on the spring and slot on the frame is a design choice as the placement of the cooperating parts are interchangeable and will function to secure the frame in place either way. As shown in Figure 1, the positioning of the bracket is such that it is along the outside of the frame and covered while defining the fixing region (see Figure 1, claim 2). A connection region is formed with slot and set screw 46 which engages over the housing frame (claim 3). Regarding claim 9, Pahl shows a reflector 80 supported by the frame. Pahl states in the disclosure regarding the prior art that a trim is placed over a lighting fixture to diffuse the emitted light (see column 1, line 12, claim 10).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pahl as applied to claim 1 above, and further in view of Chen et al.

Claim 6 sets forth a plastic sleeve attached to the end of the sleeve. The pivoting mechanism of Pahl is a nut 54. Chen et al is cited for teaching that it is known in the art to have plastic components in a lighting device particularly in a pivoting mechanism (see Figure 5). It would have been obvious to one skilled in the art that Pahl could be modified to include plastic components in the lighting device in the same manner as taught by Chen et al because both references are directing recessed lighting fixtures and the plastic components would permit a lighter weight apparatus.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pahl as applied to claim 1 above, and further in view of Wettengel et al.

Pahl does not show any additional mechanism to assist in the pivoting of frame 26. Wettengel et al teaches that it is known in the art to provide a hinge mechanism 4 between a lamp housing 2 and the closing frame 3 which includes an opening in the housing and cooperating recess in the frame 3 as shown in Figure 1. It would have been obvious to one skilled in the art that Pahl could be modified to include a pivoting device to assist in the closing and opening of frame 26 in the same manner as taught by Wettengel et al because both references are directed to ceiling mounting lighting fixtures and the pivot joint enables a smooth opening and closing of the fixture.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pahl as applied to claim 1 above, and further in view of Bowker.

Claim 8 sets forth a peripheral seal for the lighting device between the two frames. Pahl does not show a seal. Bowker teaches that it is known in the art to have a peripheral seal around a ceiling mounted lighting device between the housing and a cover. It would have been obvious to one skilled in the art that Pahl could be modified to include a seal in the same manner as taught by Bowker because both references are directed to similarly structured lighting devices and a seal prevents dirt and moisture from entering the interior of the housing.

Allowable Subject Matter

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Claim 5 is considered to set forth allowable subject matter because Claim 5 sets forth the latch receiver consisting of a spring member with an ingoing slider and an outgoing slider and a latch position provided there between. This combination of limitations was not shown or suggested by the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ellis, Gow and Avila et al are cited of interest. Any inquiry concerning this communication or earlier communications should be directed to Examiner Neils at (571) 272-2377 on a Monday, Tuesday or Thursday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong (James) Lee can be reached on (571) 272-7044.

PAN

/Stephen F. Husar/
Primary Examiner, Art Unit 2875